

# EXHIBIT “E”

JUN 24 2000 4:35PM HP LASERJET 3200

P-2

SUPPLEMENTAL DECLARATION OF MARK DILLON

I, Mark Dillon, declare:

1. I am the Logistics LAN Administrator at Fleming's Hawaii Division ("Fleming"). I have served in this position since October 1, 1999. My duties in this capacity include installing and overseeing the software applications used by Fleming's employees on their computers. Through the performance of these duties I am familiar with the lawsuit titled Wayne Berry v. Fleming Companies, Inc., et al. Civ. No. 01 00446 SPK LEK (the "copyright litigation"), and the copyright infringement allegations Wayne Berry and his counsel have made against Fleming with regard to certain software in which Mr. Berry claims a copyright.

2. Fleming used Mr. Berry's software as originally configured from March 31, 2003, to June 9, 2003. Neither Fleming nor C&S has used Mr. Berry's software at any time since June 9, 2003.

So sworn under penalty of perjury in Kapolei, Hawaii, on June 24, 2004.



Mark Dillon  
Mark Dillon

Berry v Hawaiian Express Plaintiff Exhibit 47

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